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AMERICAN INDIAN TRIBAL GOVERNMENTS

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to assist member tribes (now numbering forty-three) in preserving and managing energy resources. In the past, tribes relied heavily on advice from outside developers. As a result, they rarely obtained adequate returns from or control over the extraction of their own resources. By monitoring important energy legislation and by providing technical assistance, CERT gives tribes an opportunity to better plan and control the development of their own resources. In 1987 representatives from eighty-two tribes established the Intertribal Agriculture Council. The council's purpose is to assist tribes in developing their agricultural potential. Forty-six million acres of the 53 million held in trust are used for agriculture. Only 40 percent of Indian farmlands, however, are used by Indians. Tribes are also increasingly entering into agreements with state and local governments in an effort to solve problems of mutual interest. Chapter 12 examines representative agreements between tribes and the federal, state, and local governments about law enforcement, resource conservation, taxation, and social services.

PROVIDING SOCIAL SERVICES

In traditional Indian society the extended family and the tribe as a whole educated the young and cared for the sick and the elderly. But the severe disruptions of tribal life during the reservation and assimilation periods left tribes unable to meet their needs in traditional ways. Responsibility for providing social services passed from the hands of tribal members to BIA agents and other outside agencies such as churches. In 1975, Congress passed the Indian Self-Determination and Education and Assistance Act in a move to return social services to tribal control. This act grants tribes the opportunity to operate many reservation programs previously administered by the bureau. This law not only supports Indian sovereignty but also encourages that social services be tailored to the special needs and unique culture of each community. Today, tribes operate more than half of the federal services provided to reservations, including assistance to the needy, law-enforcement programs, court systems, housing programs, health clinics, and schools.

Education

The education of Indian children by non-Indians began in 1568, soon after colonization, when Jesuit missionaries established a school at Havana, Cuba. The purpose of this school and the others that followed it was to "civilize" the Indians. Becoming civilized meant converting to Christianity, learning to read and write and farm, and adopting white values—individualism, materialism, competitiveness, conquest of nature, and saving for the future.

Throughout the colonial period, priests and missionaries accompanied Spanish, French, and English explorers, teach-

Purpose:

- (1) "To ensure that the Indian people receive an equitable return for their resources, and are able to utilize those resources as a foundation upon which to develop stable tribal economies."
- (2) "To assist the tribes in protecting their natural, social, and cultural environment from the adverse impacts of energy resource development."
- (3) "To aid each tribe in acquiring the capability to manage its resources for itself."

Statement of Purpose,
Council of Energy Resource
Tribes (CERT), 1975

increased both federal expenditures and the role of the BIA in tribal affairs. The BIA began an education program in 1870, and in 1879 it opened its first off-reservation boarding school. After the Major Crimes Act was passed in 1885, the BIA's presence was increased by the establishment of courts of Indian offenses. By 1900 property management had become a large part of BIA operations, as a result of the Allotment Act. In 1909 the government began providing regular medical services to Indians. Although in the 1930s Congress reversed its policy of blatant assimilation with the Indian Reorganization Act and moved to strengthen tribal governments and economies, the new policy continued to increase BIA services as Congress appropriated money to tribes for economic development and technical assistance.

The bureau's expansion continued unabated until the early 1950s, when Congress, during the termination era, passed a series of laws designed to reduce the federal government's responsibility to tribes. A number of tribes were terminated and some federal services, such as education and health, were transferred from the bureau to other departments in what was then called the Department of Health, Education, and Welfare.

As discussed in chapter 5, the termination policies proved disastrous. By the 1960s, the mood of the country had changed and had embraced President Lyndon Johnson's Great Society, a series of programs designed to eradicate poverty and assist the disadvantaged.

In the 1960s tribes became eligible for a variety of programs not as beneficiaries of the government's trust responsibility but because they were government entities. Like states, counties, and cities, tribes could apply for grants designed to upgrade government services, encourage economic development, and improve health and education. The "Great Society" provided Indians with housing grants through the Department of Housing and Urban Development, economic development grants through the Department of Commerce, and training grants through the Department of Labor. By the early 1970s, tribes were receiving funds and services from a variety of agencies within the federal government.

Federal cutbacks have caused many "Great Society" programs to disappear, but the federal government's obligation to provide basic services to tribes continues. Exactly which services are required by law varies by tribe depending upon treaty provisions. The 1794 treaty with the Six Nations (Iroquois League) requires, for example, the federal government to pay each of the six tribes \$4,500 per year and supply them with certain quantities of cloth. In its 1857 treaty with the Pawnees the federal government agreed to pay that tribe an annual sum of \$30,000.

Educational and health-care services are explicitly required by some treaties. More generally, however, they are an obligation implied in the trust relationship. In addition,

The American Indian has purchased a prepaid program by the largest real-estate transaction in the history of the U.S. If the U.S. cannot afford the provisions of health and other benefits, then we would be happy to have our lands returned.

Everett Rhodes, M D,
Chairman, American Indian
Policy Review Commission,
testimony on Indian
Health Care Improvement Act

The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligations to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy.

1976 Indian Health Care
Improvement Act

president. These executive departments administer a variety of services and programs important to tribal governments. In the 1980s more than half of all federal funds going to Indians came from non-BIA departments.

The Department of Labor offers employment and training grants. These have been especially beneficial to Indian people and tribal governments, because they have given Indians a chance for training and jobs on their reservations, where unemployment ranges from 40 percent to 90 percent. In 1981, Comprehensive Employment Training Act (CETA) funds, which have since been greatly reduced, provided ten thousand jobs on reservations. These grants allowed tribal governments to offer training programs for young workers and the elderly and also funded alcohol rehabilitation programs.

The Department of Housing and Urban Development (HUD) provides assistance for housing and development of rural and urban communities. HUD has cooperated with the BIA and the IHS to set up programs for improving the deplorable living conditions on many reservations. In 1982, HUD was financing over 90 percent of all Indian housing. More than 140 tribes have established tribal housing authorities to oversee the construction and rehabilitation of low-cost housing units.

The Department of Health and Human Services (HHS) oversees the general health and welfare of all American citizens. Its programs include income assistance and health insurance, such as Medicare and Medicaid. Other HHS agencies offer special services aimed at child care and development, the aging, and the handicapped. Indians, like all U.S. citizens, are eligible to apply for these grants and services. Of direct importance to Indians is the Indian Health Service (IHS), a subagency of the HHS's Public Health Service. The IHS provides medical services, hospital care, preventive health care, medical training, and funds for improving water supply and wastewater treatment systems to federally recognized tribes and individual members of federally recognized tribes living on or near a reservation.

As already mentioned, the attorney general's office, of the Justice Department, and the solicitor's office, of the Interior Department, represent Indian interests in court. The Justice Department's Land and Natural Resources Division handles most Indian resource cases. The Federal Bureau of Investigation (FBI), also located within the Justice Department, assists tribal governments in investigating crimes occurring on Indian land. Other divisions of the Justice Department are responsible for prosecuting crimes in Indian country, pursuing discrimination suits on behalf of Indian individuals against non-Indians, and overseeing the compliance of tribal governments with the Indian Civil Rights Act.

The Department of Transportation is responsible for highway development, mass transit, oil and gas pipeline construc-

tion, railroad and aviation regulations, and transportation safety. In 1975 a government report estimated that only one-quarter of all reservation roads were paved, hindering both traffic safety and economic development. In some instances the Department of Transportation, like the Department of Education, has designated tribes the "fifty-first state" and transfers their share of a program's budget to the BIA.

The Department of Education is charged with assisting citizens in establishing and maintaining efficient school systems. The Indian Education Office, located in the Department of Education, administers grants to local educational agencies for elementary and secondary school programs designed to meet the special educational needs of Indian children and adults.

The Energy and Commerce departments are directly involved in programs to help reservations achieve greater economic development. Both provide loans and other assistance to tribal governments so that they can explore for mineral deposits and develop industrial parks, tribal businesses, and recreational and tourist facilities. Department of Energy grants have funded a special interest organization, the Council of Energy Resource Tribes (CERT), which helps tribes gain greater benefits from the development of their resources.

The Department of Agriculture also funds some economic development projects and distributes commodity foods and administers supplemental food programs. Tribal governments may apply to the Farmers' Home Administration (FHA), a subagency of the department, for loans to develop farming and grazing enterprises, rural businesses and industries, and water and waste disposal systems. In addition, some tribes, the Stockbridge Munsee of Wisconsin, for example, have used a special FHA loan program to buy back lands lost through the allotment process.

The Department of the Interior is the department of the executive branch most directly concerned with tribes. Responsible primarily for the conservation and use of the nation's resources, the Interior Department administers more than 600 million acres of federal lands (including 53 million acres of continental U.S. Indian trust land and 40 million acres of Alaskan Native lands). The Interior Department also manages fish and wildlife, water, land reclamation, irrigation, development of mineral and energy resources, and the national parks.

The Bureau of Indian Affairs, within the Interior Department, is the agency directly responsible for administering Congress's relationship with federally recognized tribes. It is discussed in greater detail below.

The Bureau of Indian Affairs

The Bureau of Indian Affairs (BIA), also referred to, until 1947, as the Office of Indian Affairs and the Indian Office, is